

IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

*

UNITED STATES OF AMERICA

*

v.

No. 07-4059 (L)

*

PAULETTE MARTIN, et al.

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* * * * *

JOINT MOTION TO EXTEND TIME FOR BRIEFING

Comes now Appellant herein, Paulette Martin, by and through her counsel, Michael D. Montemarano, Esq., and Michael D. Montemarano, P.A., as appointed counsel pursuant to the CJA, and as lead appellate counsel for the five other Appellants herein, and does move for the extension of the time for the briefing of this matter, and in support thereof does state:

1. The Joint Brief of Appellants is due on September 21, 2009, per the current briefing order.
2. As previously noted to this Court by Appellants, this appeal involves over 7000 pages of transcript covering twelve weeks of trial and pretrial proceedings. Counsel for the six Appellants are not yet finished reviewing the transcript and relating same to the voluminous discovery in this matter (31 boxes of material) plus the massive amount of material adduced at trial (hundreds of trial exhibits plus 500-odd transcripts of monitored calls). This is a required step for appellate counsel who were present at trial over three years ago, but yet more of a concern for appellate counsel who were not trial counsel.
3. In addition, one of these non-trial counsel, G. Alan DuBois, Esq., AFD (counsel for Dobie), recently has been assigned responsibility within his Office for a matter before the United

States Supreme Court, on writ of *certiorari* to this Court, *United States v. Comstock*, through and including oral argument which will possibly be in January, 2010, if not later. With Mr. DuBois due to file his brief for Appellee in October, 2009, he simply will have no available time to devote to the instant appeal between now and the end of the winter. These circumstances are described fully in Mr. DuBois' recent letter to lead counsel, attached hereto as an exhibit.

4. In similar fashion, due to the size of this appeal, it is not possible for this matter to be referred to another attorney in his office. Mr. DuBois has completed considerable amounts of work, and this cannot reasonably be duplicated by another attorney, absent the provision of assistance by Mr. DuBois, which he cannot do.

5. Appellants are serving lengthy sentences, and in three instances life terms, necessarily meaning that this is an appeal of considerable import.

6. Counsel for Appellants also are and continue to be trial counsel in previously scheduled matters before the U.S. District Courts in Baltimore and Washington, DC, between the date of this Motion and the end of the year. They therefore will not be able to give the Joint Brief their undivided attention at any point during this time, or in the near future, nor will they be able to provide significant assistance to Mr. DuBois or his potential replacement.

7. Additionally, coordination between counsel necessarily will be time-consuming, due solely to the nature of six separate attorneys and their respective schedules. This already has led to testy exchanges of letters and emails between undersigned lead appellate counsel and his co-counsel.

8. Counsel for Appellants therefore request that the time for briefing be extended, and the due date of the Joint Brief of Appellants and Joint Appendix be rescheduled to no earlier than March 23, 2010.

9. Counsel for Appellant is authorized to state that counsel for Appellee, Assistant United States Attorney Deborah Johnston, does not object to the grant of the requested relief. Specifically, lead counsel was requested this date via email to state the government's position as follows: "Please indicate that the government counsel was contacted. Although government counsel voiced strong concerns given the age of this case, government counsel has reluctantly agreed to consent to the request."

Respectfully submitted,

/s/
MICHAEL D. MONTEMARANO

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For Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on or before this 10th day of September, 2009, a copy of the foregoing *Joint Motion to Extend Time for Briefing* (with exhibit) was filed via CM-ECF, and served via direct email, to Deborah Johnston, Esq., Assistant United States Attorney, 400 US Courthouse, 6500 Cherrywood Lane, Greenbelt, MD 20770.

/s/
MICHAEL D. MONTEMARANO